

ARKANSAS COURT OF APPEALS

DIVISION I
No. CA10-258

OFFICE OF CHILD SUPPORT
ENFORCEMENT

APPELLANT

V.

REGINALD GADDIE

APPELLEE

Opinion Delivered OCTOBER 6, 2010

APPEAL FROM THE JEFFERSON
COUNTY CIRCUIT COURT
[NO. DR-08-1059-4]

HONORABLE LEON N. JAMISON,
JUDGE

REVERSED AND REMANDED

KAREN R. BAKER, Judge

Appellant Arkansas Office of Child Support Enforcement (OCSE) appeals from a Jefferson County Circuit Court order filed on December 7, 2009, which granted the motion to dismiss of appellee Reginald Gaddie. A timely notice of appeal was filed on December 23, 2009. OCSE argues on appeal that the trial court erroneously applied the general Arkansas child-support statute of limitations, Arkansas Code Annotated section 9-14-236 (Repl. 2008), instead of the more specific Uniform Interstate Family Support Act (UIFSA) statute, Arkansas Code Annotated section 9-17-604 (Repl. 2008), thereby preventing registration of a child-support order for the purpose of enforcement and collection of arrears. We find merit in OCSE's argument and reverse.

OCSE received a request from the State of California to register two foreign orders and to enforce the arrears that accompanied the orders. The first order was an interlocutory judgment of dissolution of marriage filed on April 4, 1979, where Lisa Gaddie (now Brown) was awarded custody of the parties' minor child, Vashti E. Gaddie, born August 6, 1976, and Reginald Gaddie was ordered to pay child support in the amount of \$75.00 per month. The second order was an order after a hearing filed on November 19, 2007, where a judgment for past-due arrears was entered for \$6,915.71, with interest, and he was ordered to pay \$200.00 per month to retire the arrears. In response to the request, OCSE filed a petition to register child-support order pursuant to the Uniform Interstate Family Support Act on July 17, 2008.¹ In the petition, it was requested that the accompanying order be given full faith and credit.

On October 13, 2008, the California, Sonoma County, Department of Child Support Services submitted a second enforcement transmittal to OCSE: 1) to state that Ms. Brown requested that the non-welfare portion of the arrears be dismissed; and 2) to update the child support owed to \$7,202.08. OCSE filed an amended petition to reflect the changes and again stated that it was requesting that the attached order be given full faith and credit. Appellee filed a general denial answer to both petitions and requested an immediate hearing. Thereafter, appellee filed a motion to dismiss arguing only that Arkansas Code Annotated section 9-14-236(c) barred the collection of arrears beyond the five-year statute of limitations, which meant that as Vashti Gaddie reached the age of eighteen on August 7, 1994, any

¹Lisa Brown was named as the petitioner in the first petition. In subsequent pleadings, OCSE is named as the petitioner, and Lisa Brown is named as an OCSE assignor.

collection for arrears was barred after 1999. In response, OCSE only claimed that the action was not barred because Arkansas Code Annotated section 9-17-604(b) and *Clemmons v. State*, 345 Ark. 330, 47 S.W.3d 227 (2001), allowed the collection of child-support arrears until they were paid in full because California law was governing. On August 27, 2009, a hearing was held and the following pertinent colloquy took place:

THE COURT: Why shouldn't I dismiss this case, Mr. Short?

MR. SHORT: [T]he defendant's basis for challenging the registration is using Arkansas law which limits when a judgment can be granted. In this case, *Clemmons v. OCSE*, which was a decision entered in 2001 states that the applicable statute of limitations is the longer of the statute of limitations under Arkansas law or the state issuing the support order.

In this case, it was the state of California that entered the order. And *Clemmon v. OCSE* specifically addressed California law. In that case, it found that California Family Code Section 4502 was applicable under 291(a). 291(a) states that a money judgment or judgment for possession or sale of property does—made or entered under this code including a judgment for a child, family or spousal support is enforceable until paid in full or otherwise satisfied.

In this case, November 19th of 2007, the California court entered an order finding the defendant was in arrears and that he should continue making payments in the amount of \$200 monthly. Again . . . since the law is that it's the longer of the two state statutes regarding statute of limitation . . . California law does not have a limitation on their statute.

THE COURT: [T]here are two issues here. Number one is when should the action be filed in order to collect the amount of child support owed. [S]econdly, what is the statute of limitation with regard to the amount of arrears that can be collected. And I believe with regard to your argument... supports the amount of arrears that can be collected. [A]rkansas law controls with regard to when the action should be filed in this state. The action was filed way after this child turned 23 years of age. . . . I'm going to find that this action is barred by the statute of limitation.

The following order, in relevant part, was entered.

2. That on July 17, 2007[sic] plaintiff filed a petition to register child support order pursuant to the Uniform Interstate Family Support Act seeking to register an order of support entered by the Superior Court of California, Sonoma County, on April 4, 1979.
3. That defendant was ordered to pay support for his daughter born on August 7, 1976 and who attained the age of 32 years before the filing of the present action.
4. That Arkansas Code Annotated section 9-14-23(c) imposes a five (5) [year] statutory limitation period on collection of arrear child support and the Court finds the present action is barred by said statute.
5. That plaintiff should have filed such action within five (5) years of the minor child at issue attaining the age of 18 years or by the time such child was 23 years of age.
6. That such child would have attained the age of 23 years on August 7, 1999, and this action was not filed until more than nine (9) years after such child attained age 23.

A trial court's ruling on child support issues is reviewed de novo by this court, and the trial court's findings are not disturbed unless they are clearly erroneous. *State of Arkansas Child Support Enforcement v. Adams*, 94 Ark. App. 236, 228 S.W.3d 555 (2006); *Allen v. Allen*, 82 Ark. App. 42, 110 S.W.3d 772 (2003). However, a trial court's conclusion of law is given no deference on appeal. *Ward v. Doss*, 361 Ark. 153, 205 S.W.3d 769 (2005); *Hollingsworth v. Hollingsworth*, 2010 Ark. App. 101, ___ S.W.3d ___.

OCSE argues on appeal that the trial court applied the incorrect statute of limitation and that the trial court failed to give full faith and credit to the California judgment entered on November 19, 2007. As the colloquy above and OCSE's response to the motion to dismiss reveal, counsel for OCSE argued the statute of limitation as regarding the collection of the arrearages. He did not specifically request the trial court to give full faith and credit

to the judgment.² *McWhorter v. McWhorter*, 2009 Ark. 458, ___ S.W.3d ___ (when a general argument was made to the trial court, this court will not consider specific arguments raised for the first time on appeal and will not consider arguments when a party has failed to obtain a ruling from the trial court). The burden was on OCSE to bring this issue to the trial judge's attention and to obtain a ruling, and as the order does not address full faith and credit, we are deprived of the opportunity to review it on appeal. *Turley v. Staley*, 2009 Ark. App. 840, ___ S.W.3d ___; *Office of Child Support Enforcement v. House*, 320 Ark. 423, 897 S.W.2d 565 (1995).

OCSE's assertion that the trial court applied the incorrect statute of limitation has been preserved. Under Arkansas Code Annotated section 9-17-601 (Repl. 2008), a support order issued by a tribunal of another state may be registered in this state for enforcement. Arkansas Code Annotated section 9-17-604(b) (Repl. 2008) states that in a proceeding for arrearages, the statute of limitation under the laws of this state or of the issuing state, whichever is longer, applies. The statute of limitation in Arkansas is five years, which permits the recovery of child support arrearage until the child for whom support has been ordered reaches the age of twenty-three. Arkansas Code Annotated section 9-14-236 (Repl. 2008).

²We explained the difference between an action to collect accrued child support arrearages and an action to enforce a judgment in *Johns v. Johns*, 103 Ark. App. 55, 286 S.W.3d 189 (2008). A foreign judgment based upon child-support arrearages is entitled to full faith and credit and is as conclusive on collateral attack as a domestic judgment, absent fraud in the procurement or lack of jurisdiction in the rendering court. *Durham v. Ark. Dep't Human of Servs./Child Support Enforcement Unit*, 322 Ark. 789, 912 S.W.2d 412 (1995).

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Since 1993, under California law, a judgment for child support is enforceable until paid in full. California Family Code sections 4502 and 291; *In re Marriage of Tavares*, 60 Cal. Rptr. 3d 39 (Cal. Ct. App. 2007). Therefore, at the time this action was filed, California law governed the limitation period. It was error for the trial court to grant the motion to dismiss based upon Arkansas Code Annotated section 9-14-236(c), and we reverse and remand for further proceedings consistent with this opinion.

Reversed and remanded.

GRUBER and HENRY, JJ., agree.